

Message Text

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FM AMEMBASSY BUCHAREST

TO SECSTATE WASHDC PRIORITY 1083

C O N F I D E N T I A L BUCHAREST 5586

EXDIS

E.O. 11652: GDS

TAGS: EEW, RO

SUBJ: COMPARISON OF US AND ROMANIAN TRADE AGREEMENT DRAFTS

REF: STATE 263875

1. IN REVIEWING US DRAFT BEFORE PRESENTATION, EMBASSY NOTED THAT PROVISION OF ART V REGARDING PATENTS AND COPYRIGHTS WOULD ACCORD US COMPANIES IN ROMANIA THE SAME RIGHTS HELD BY ROMANIAN CITIZENS HERE. ALTHOUGH EMBASSY REALIZES DRAFT WORDING MAY BE BASED ON MULTILATERAL AGREEMENTS, DEPT SHOULD BE AWARE THAT ROMANIAN CITIZENS' RIGHTS TO PATENTS ARE EXTREMELY LIMITED. A LAW RECENTLY PASSED BY GRAND NATIONAL ASSEMBLY, COPIES OF WHICH WE HAVE POUCED TO DEPARTMENT (BY LETTER TO CHRISTENSEN, EUR/EE) MAY LIMIT THEM STILL FURTHER. NEW LAW, WHICH TAKES EFFECT IN FEBRUARY 1975, EMBODIES ROMANIAN CONCEPTION THAT CREATION OF INVENTIONS FORMS PART OF EACH GROUP'S AND INDIVIDUAL'S OBLIGATION TO THE STATE. IN MOST CASES PATENTS WILL BE GRANTED NOT TO PRIVATE INDIVIDUALS BUT THE THE SOCIALIST ORGANIZATIONS (STATE ENTERPRISES, RESEARCH INSTITUTES, ETC.) WITHIN WHICH INVENTIONS ARE DEVELOPED. ARTICLE 46 OF NEW LAW PROVIDES THAT INVENTIONS MAY BE PUT TO USE WITHOUT CONSENT OF PATENT-HOLDER IN CASES WHERE THIS MEETS BROAD REQUIREMENTS OF PUBLIC INTEREST OR NATIONAL DEFENSE, OR WHEN INVENTIONS HAVE BEEN "INSUFFICIENTLY" USED IN ROMANIA.

2. GIVEN THIS DIFFERENCE OF APPROACH TO QUESTION OF INDUSTRIAL CONFIDENTIAL

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PROPERTY, WE ARE CONCERNED THAT SPECIFIC MENTION OF NATIONAL

TREATMENT IN TRADE AGREEMENT COULD WEAKEN POSITION OF US COMPANIES HERE, WHO MIGHT OTHERWISE BE BETTER ABLE TO PROTECT THEIR PATENTS THROUGH THEIR CONTRACTS WITH GOR. WE ACCORDINGLY

OMITTED TEXT OF ARTICLE V IN COPY OF DRAFT WE GAVE ROMANIANS.

3. IF WASHINGTON WISHES TO CONSIDER FORMULATING NEW LANGUAGE, TWO POSSIBILITIES OCCUR TO US. ONE WOULD BE TO COUCH ARTICLE IN GENERAL TERMS, REFERRING TO MUTUAL NEED TO PROTECT INDUSTRIAL PROPERTY AND COPYRIGHTS AND TO ADHERE TO INTERNATIONAL CONVENTIONS IN ORDER TO ENCOURAGE TRANSFER OF TECHNOLOGY. OTHER ALTERNATIVE MIGHT BE TO DRAFT MORE PRECISE LANGUAGE TAILORED TO ROMANIAN SETTING, ALLOWING FOR DIFFERENCE BETWEEN US AND ROMANIAN CONCEPTS BUT PROVIDING PROTECTION FOR US PATENTS AND COPYRIGHTS IN ROMANIA EQUAL TO THAT WHICH ROMANIAN PATENTS, ETC. RECEIVE IN US. EMBASSY AGREES IN ANY CASE THAT SOME REFERENCE TO THIS QUESTION SHOULD BE RETAINED IN TRADE AGREEMENT.

BARNES

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